



## Tonga

### Country Reports on Human Rights Practices - [2002](#)

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The Kingdom of Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. The judiciary is independent.

The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The Minister of Defense controls a 430-man TDS force; the Minister of Police and Prisons directs the police force. Some members of the police committed human rights abuses.

The country has a population of approximately 105,000 and a per capita GDP of approximately \$2,200. The economy is based primarily on the cultivation of tropical and semitropical crops. The demand for imported goods and products has led to a substantial trade deficit. This deficit was offset largely by remittances from overseas citizens, foreign aid, and, to a lesser degree, tourism.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The right of citizens to change their government remained severely restricted, although a relatively small group of commoners vocally challenged the Constitution to argue for a more representative and accountable government. At times the authorities infringed on freedom of speech and of the press. Some women suffered from domestic violence; women also faced discrimination and very limited employment and economic opportunities. In practice, the right to form labor unions was restricted by the lack of implementing regulations.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

###### b. Disappearance

There were no reports of politically motivated disappearances.

###### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution forbids torture and inhuman or degrading punishment or other such treatment; however, there were some abuses by police.

Prison conditions were Spartan but reflected local living standards. There were separate facilities for pretrial detainees and convicted prisoners, men and women, and adults and juveniles. Church representatives and family members were permitted to visit prisoners. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits has not arisen.

###### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Constitution provides for the right to judicial determination of the legality of arrest, and this was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. There were no reports of preventative

detention or other lengthy pretrial detention. The law permitted unlimited access by counsel and family members to detained persons.

The Constitution and law do not prohibit forced exile, but the Government did not employ it in practice. The last case of forced exile was in 1886.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary, whose top judges historically have been foreign nationals, was independent of the King and the executive branch. Judges held office "during good behavior" and otherwise could not be dismissed during their terms.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrates' courts, a general court, a court martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeals is the highest court. The King's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute a death sentence in cases of murder or treason.

The law provides for the right to a fair public trial, and the Government generally respected this in practice. A court may not summon anyone without providing the person with a written indictment stating the charges. Defendants are presumed innocent, are entitled to counsel, have a right of appeal, and are entitled to bail; lawyers have free access to defendants.

In past years, the police, in cooperation with government prosecutors, allegedly used repeated postponement of court dates and the filing of frivolous charges to intimidate government critics. In one case, a human rights activist was scheduled to appear in court in March 2001 as a witness to a theft. He wrote a letter to a newspaper criticizing the Police Ministry and was subsequently charged with abetting theft (see Section 2.a.). His hearing was postponed several times, and he was prevented from traveling out of the country until December 2001, when a magistrate permitted him to visit family members living outside the country. In February the case against the activist was closed.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights. In June police confiscated tape recordings of the "Niuvakai" television program, alleging that it was overly critical of the Government. Government-owned Tonga Television subsequently refused to broadcast further Niuvaki programs.

There were eight newspapers and newsmagazines in print: Three weeklies (one of which was government owned); three monthlies; one bimonthly; and one quarterly. There were two privately owned television stations and one government-owned station. The Government-owned radio station broadcasts on both AM and FM frequencies. There were three privately owned radio stations.

While there was little editorializing in the government-owned media, opposition opinion appeared regularly in the form of letters to the editor along with government statements and letters. The national media, from time to time, carried comments critical of government practices and policies, including some made by prominent citizens. The law allows government officials to bring defamation suits, as well as suits by officials and other individuals against media outlets that publish allegedly defamatory remarks. This may have had the practical effect of limiting freedom of speech. During the year, government officials filed several defamation suits against the media. At year's end, the Ministry of Police had appealed the decision in a wrongful imprisonment suit filed by a newspaper editor detained after publishing a political item. In another case during the year, authorities dropped charges of sedition and dealing with a forged document filed against a newspaper editor and a reporter who had published a letter with allegations against the King. However, these charges were still pending against an M.P. and his staff member allegedly involved in the incident (see Section 3).

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The law provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Tonga Broadcasting Commission (TBC) policy guidelines regarding the broadcast of religious programming on Radio Tonga stated that those who preach on Radio Tonga must confine their preaching "within the limits of the mainstream Christian tradition." This policy applied to all religions. The TBC did not allow members of the Baha'i Faith to discuss the tenets of their religion, or to refer to the founder, Baha'ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter Day Saints to discuss its founder, Joseph Smith, or the Book of Mormon by name. Mormons and members of other faiths utilized Radio Tonga for the announcement of church activities and functions. Members of the Baha'i Faith utilized a privately owned radio station for program activities and the announcement of functions. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

For a more detailed discussion see the 2002 International Religious Freedom Report.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respected them in practice. Citizens are free to travel at will within the country and abroad. However, in March 2001, a government critic was prevented from traveling abroad by the repeated postponement of the court case in which he was involved (see Section 1.e.). In December 2001, following special representations to a magistrate, he was permitted to visit relatives residing outside the country.

The Government is not a signatory to the 1951 Convention Relating to the Status of Refugees or its 1967 protocol. No person was known to have applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in the Legislative Assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch's endorsement, the King at times permitted the legislative system to operate without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. The Cabinet is made up of nine ministers and two governors; it included both nobles and commoners, who served at the King's pleasure.

The unicameral Legislative Assembly consists of the Cabinet, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles. Cabinet members and nobles usually voted as a bloc. In September a proposal for political reform was submitted by the Tonga Human Rights and Democracy Movement (THRDM) to the Legislative Assembly. The proposal advocated the creation of a bicameral assembly, with the nine noble members moved to an upper house. The lower "House of Commoners" would consist of 21 popularly elected members. At year's end, Parliament had not yet addressed the proposal. In 2000 the King appointed his son, Prince Ulukalala Lavaka Ata, as Prime Minister. As Prime Minister, the Prince also held five other ministerial portfolios, including those of defense and foreign affairs.

Elections held in March resulted in a strong showing for prodemocracy candidates on the main island of Tongatapu. Shortly before the elections, a royalist political group, "Kotoa" ("Together") emerged as a serious movement. Kotoa received the support of the King's eldest daughter, Princess Pilolevu.

In June the Government publicly launched an economic and public sector reform program led by a Cabinet Reform Committee and composed of five teams, including a team dealing with private sector reform that included members of the Chamber of Commerce. Otherwise, there was no opportunity for participation by civil society. Very few citizens challenged the retention of the monarchy; the King was greatly respected. However, in recent years, a number of persons both inside and outside the establishment have called for democratic change, usually emphasizing the importance of more government accountability.

A prodemocracy movement continued during the year, although it lacked formal structure due to differences of views among its leaders. All nine representatives of the general population advocated various degrees of democratic reform. Proposals for constitutional revision tended to center on the popular election of all parliamentarians, with the parliamentarians selecting their speaker. In January 2001, the Prime Minister announced that the King had directed the formation of three Cabinet committees to examine the core governmental functions under the Constitution and the law, to examine the Government's other functions,

and to review the structure of the civil service. No public input was solicited, and the results of the review (which were to have been completed in March 2001) had not been announced by year's end.

In February the police raided the offices of THRDM, briefly detained three staff members, and impounded a computer hard drive. The police detained another staff member for several days in connection with an allegedly forged letter regarding the King's personal wealth. Three members of THRDM faced trial on forgery charges at year's end, including leading figure Akilisi' Pohiva. Pohiva was not imprisoned and was allowed to travel abroad. Other members of THRDM, including lead staffer Lopeti Senituli, admitted the letter was indeed a forgery.

No woman has ever served as a government minister. There are no female Members of Parliament, although there have been in the past.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. There were no restrictions on operations by international human rights groups, and no known requests for investigations during the year.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Social, cultural, and economic facilities were available to all citizens regardless of race or religion, but members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status. It was possible for ordinary citizens to rise to cabinet positions in government and to accumulate great wealth and status in the private sector.

##### Women

Societal violence against women seldom was publicized, but it was a growing problem. Incidents of wife beating were generally addressed in traditional ways within families or by village elders. Such abuse seldom was reported to the police. Domestic violence could be prosecuted under laws against physical assault. Abused wives sometimes returned to their families if mediation failed. There were shelters for abused and troubled women, most church affiliated, and the Free Wesleyan Church ran a hot line for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. However, the law does not recognize spousal rape and specifically states that carnal intercourse by a man and his wife shall not under any circumstance be deemed rape.

Prostitution per se is not illegal, but activities such as soliciting in a public place, pimping, operating a brothel, and trading in women are criminal offenses. Prostitution was reportedly increasing. Sexual harassment as such is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Women held several prestigious posts in government, including Secretary to Cabinet in the Prime Minister's Office and Secretary of Foreign Affairs. Women also headed the Office of Crown Law and the Government Central Planning Office. The majority of commissioned officers in the Ministry of Police were women. For a woman to rise to a position of leadership, she usually needed the support of the nobility. The King's mother reigned for many years, and a royal princess was one of the country's most prominent businesspersons. Some female commoners held senior leadership positions in business.

Inheritance laws, especially those dealing with land, discriminated against women. Women could lease but not own land. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock took precedence over the claim of the deceased's widow or daughter.

The Women and Development Center (formerly the Women's Affairs Unit) in the Prime Minister's office was established in 1993. Although some NGOs initially viewed this unit with suspicion, it appeared to be functioning cooperatively with them. Its objectives included the promotion of full and equal participation of men, women, and children in economic, social, and cultural development, and the enhancement of women's economic status and role in the national economy. However, many young, educated women still considered the unit ineffective. A government-sponsored National Council of Women conducted training workshops, especially in rural areas, and contributed to women's social and economic needs.

The Center for Women and Children, an NGO under the auspices of the Catholic Church, focused on domestic abuse and improving the economic and social conditions of women and offered counseling for women in crisis.

##### Children

The Government was committed to children's human rights and welfare and provided commensurate funding for children's

welfare given available resources. Education was compulsory from ages 6 to 14. Although it was sometimes criticized as being of poor quality, education was available for all children through Form 6 (high school). Almost all children attended school.

The Government provided free basic medical care to children. Child abuse was rare and the extended family generally participated in child rearing.

#### Persons with Disabilities

There are no mandated provisions for accessibility to buildings and services for persons with disabilities. There were no reported complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the Queen.

#### National/Racial/Ethnic Minorities

Early in the year, the Tonga Department of Immigration created a list of occupations that would be available only to citizens. Individuals currently on work visas in those professions would not have their permits renewed, and would be given a year to depart the country. The list focused on professions currently dominated by Chinese, particularly retailing. New legislation granting permanent resident status to foreign nationals under strict English-language, economic, and residency criteria would effectively exclude many ethnic Chinese immigrants.

In June, storeowners in the Vava'u group of islands submitted a petition to the legislature requesting a ban on Chinese nationals operating stores on the islands. There had been no response from Parliament at year's end.

#### Section 6 Worker Rights

##### a. The Right of Association

Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act. However, they had no formal bargaining rights under that act.

The 1963 Act provides workers with the right to strike; however, implementing regulations never have been formulated. There were no strikes during the year.

##### b. The Right to Organize and Bargain Collectively

Since there were no unions, collective bargaining was not practiced.

Labor laws and regulations were enforced in all sectors of the economy, including in the two small export zones.

##### c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

##### d. Status of Child Labor Practices and Minimum Age for Employment

Although there is no legislation prohibiting child labor, it did not exist in the wage economy.

The country was not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

##### e. Acceptable Conditions of Work

There is no minimum wage law, although there were government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The Ministry of Labor enforced laws and regulations reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in the agricultural sector and on the outer islands was limited.

Industrial accidents were rare, since few industries exist that would expose workers to significant danger; thus, the Government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

## f. Trafficking in Persons

While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.